



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

SEP 9 2008

CERTIFIED MAIL

Justin B. Schmidt, Esq.  
Adams & Reese, LLP  
One Shell Square  
701 Poydras St.  
Suite 4500  
New Orleans, LA 70139

RE: MUR 5652  
Terrell for Senate

Dear Mr. Schmidt:

On August 19, 2008, the Federal Election Commission accepted the signed conciliation agreement with Terrell for Senate and you, in your official capacity as treasurer, in settlement of violations of 2 U.S.C. §§ 441a(f), 441b(a), 434(a)(6) and 434(b), and 11 C.F.R. §§ 102.17(c)(8)(i)(B), 104.3(a) and (b), and 104.5(f), provisions of the Federal Election Campaign Act of 1971, as amended, and the Commission's regulations. Accordingly, the file in this matter has been closed.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondents and the Commission. See 2 U.S.C. § 437g(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in black ink that reads "Jack Gould". The signature is written in a cursive, flowing style.

Jack Gould  
Attorney

Enclosure  
Conciliation Agreement

28044211904

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2  
3 In the Matter of )  
4 ) MUR 5652  
5 Terrell for Senate )  
6 and Justin Schmidt, in his official )  
7 capacity as treasurer )  
8  
9

10 **CONCILIATION AGREEMENT**

11  
12 This matter was initiated by the Federal Election Commission ("the Commission"),  
13 pursuant to information ascertained in the normal course of carrying out its supervisory  
14 responsibilities. The Commission found probable cause to believe that Terrell for Senate and  
15 Justin Schmidt, in his official capacity as treasurer ("Respondents"), violated 2 U.S.C. § 441b(a),  
16 2 U.S.C. § 441a(f), 2 U.S.C. § 434(b) and 11 C.F.R. §§ 102.17(c)(8)(i)(B) and 104.3(a) and (b),  
17 and 2 U.S.C. § 434(a)(6) and 11 C.F.R. § 104.5(f), provisions of the Federal Election Campaign  
18 Act of 1971, as amended ("the Act"), and the Commission's regulations.<sup>1</sup>

19 NOW, THEREFORE, the Commission and Respondents, having duly entered into  
20 conciliation pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

21 I. The Commission has jurisdiction over Respondents and the subject matter of this  
22 proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C.  
23 § 437g(a)(4)(A)(i).

24 II. Respondents have had a reasonable opportunity to demonstrate that no action  
25 should be taken in this matter.

26 III. Respondents enter voluntarily into this agreement with the Commission.

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<sup>1</sup> The facts relevant to this matter occurred both prior to and after the effective date of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. 107-155, 116 Stat. 81 (2002). Accordingly, the activity prior to BCRA is subject to the provisions of the Act as it existed at that time and the activity after BCRA is subject to the Act as amended by BCRA. However, the statutory provisions and Commission regulations at issue were not amended by BCRA in a manner relevant to the activity in this matter.

IV. The pertinent facts in this matter are as follows:

1. Terrell for Senate ("the Committee") is a political committee within the meaning of 2 U.S.C. § 431(4) and is the principal campaign committee for Suzanne Haik Terrell ("the Candidate").

2. Justin Schmidt assumed the duties of the Committee's treasurer on October 30, 2003, after the activity described herein occurred.

3. Pursuant to 2 U.S.C. § 441b(a), political committees are prohibited from knowingly accepting contributions from corporations, including limited liability companies that elect to be treated as corporations by the Internal Revenue Service. Respondents knowingly accepted 16 prohibited contributions totaling \$29,500 from corporate entities and limited liability companies.

4. Pursuant to 2 U.S.C. § 441a(f), political committees are prohibited from knowingly accepting contributions in excess of the Act's limitations. The Act limits an individual's contributions to a candidate's authorized committee to \$1,000 per election. 2 U.S.C. § 441a(a)(1)(A). The Act limits a multicandidate committee's contributions to a candidate's authorized committee to \$5,000 per election. 2 U.S.C. § 441a(a)(2)(A). Respondents knowingly accepted 540 contributions totaling \$528,273 that exceeded the Act's limitations.

5. The treasurer of a political committee is responsible for disclosing the amount of cash on hand at the beginning of the reporting period, for the reporting period, and the calendar year, and the total amounts of all receipts and all disbursements. 2 U.S.C. §§ 434(b) and 11 C.F.R. §§ 104.3(a) and (b). Respondents understated total receipts by \$693,576 and total disbursements by \$960,876, and overstated the cash balance by \$281,000.

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2           6. The treasurer of a political committee is responsible for itemizing any contribution  
3 from an individual if the contribution exceeds \$200 per election cycle either by itself or when  
4 aggregated with other contributions from the same contributor. 2 U.S.C. § 434(b)(3)(A).  
5 Itemization requires the amount of the contribution, the date of receipt, the full name and address  
6 of the contributor, the contributor's occupation and the name of his or her employer, and the  
7 election cycle-to-date total of all contributions from the same contributor. 11 C.F.R.  
8 §104.3(a)(4)(i). Respondents failed to itemize all of the contributions from individuals.

9           7. The treasurer of a political committee is responsible for itemizing all contributions  
10 from political committees, regardless of the amount. 2 U.S.C. § 434(b)(3)(B). Itemization of a  
11 political committee's contribution requires the amount of the contribution, the date of receipt, the  
12 full name and address of the contributor, and the election cycle-to-date total of all contributions  
13 from the same contributor. 11 C.F.R. § 104.3(a)(4)(ii). Respondents failed to itemize 80  
14 contributions from political committees totaling \$134,597.

15           8. The treasurer of a political committee is responsible for disclosing transfers from  
16 other political committees. 2 U.S.C. § 434(b)(2)(F) and 11 C.F.R. § 102.17(c)(8)(i)(B).  
17 Respondents failed to disclose transfers totaling \$302,000 from joint fundraising activity. In  
18 addition, Respondents failed to itemize its share of the gross receipts as contributions from the  
19 original contributors as required on memo Schedules A for any of the \$420,500 in transfers of  
20 joint fundraising proceeds. 11 C.F.R. § 104.3(a)(4).

21           9. The treasurer of a political committee is responsible for disclosing the occupation and  
22 name of employer of each individual whose contribution exceeds \$200 per election cycle either  
23 by itself or when aggregated with other contributions from the same contributor. 2 U.S.C.

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1    § 434(b)(3)(A) and 11 C.F.R. § 104.3(a)(4). When a treasurer of a political committee shows  
2    that the committee used “best efforts” to obtain, maintain, and submit the information required  
3    by the Act, the committee’s reports will be considered in compliance with the Act. 2 U.S.C.  
4    § 432(i). Best efforts require, among other things, that within 30 days after the receipt of the  
5    contribution, the treasurer make at least one effort to obtain the missing information, in either a  
6    written request or a documented oral request. 11 C.F.R. § 104.7(b). Respondents failed to  
7    adequately disclose occupation and name of employer information for 1,173 contributions from  
8    individuals totaling \$812,585. Respondents also failed to demonstrate that best efforts were used  
9    to obtain, maintain, and submit occupation and name of employer information.

10        10. The treasurer of a candidate’s authorized committee is required to file special notices  
11    regarding contributions of \$1,000 or more received after the 20<sup>th</sup> day, but more than 48 hours,  
12    before the date of any election in which the candidate is running (“48-hour notices”). 2 U.S.C.  
13    § 434(a)(6) and 11 C.F.R. § 104.5(f). Respondents failed to file 48-hour notices for 77  
14    contributions totaling \$106,100.

15        V.        Respondents violated 2 U.S.C. § 441b(a), 2 U.S.C. § 441a(f), 2 U.S.C. § 434(b)  
16    and 11 C.F.R. §§ 102.17(c)(8)(i)(B) and 104.3(a) and (b), and 2 U.S.C. § 434(a)(6) and  
17    11 C.F.R. § 104.5(f).

18        VI.        Respondents will cease and desist from violating the statutes and regulations  
19    enumerated in section V.

20        VII.        Respondents will pay a civil penalty to the Federal Election Commission in the  
21    amount of Forty-Two Thousand, Five Hundred and Forty-Three Dollars (\$42,543) pursuant to  
22    2 U.S.C. § 437g(a)(5)(A). Respondents and the Candidate, through recent filings with the  
23    Commission and additional representations, have represented that the Committee currently

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1 possesses no significant funds or assets and is unable to raise additional funds because they  
2 ceased campaign operations and because the Candidate does not intend to pursue elective federal  
3 office in the future. The Commission regards these filings and representations as material  
4 representations. If evidence is uncovered indicating its financial condition is not as represented,  
5 a total civil penalty of \$541,000, and refund of excessive and corporate contributions in the  
6 amount of \$627,373.15, which represents the amounts that the Commission would ordinarily  
7 seek for the violations at issue, shall be immediately due, pursuant to 2 U.S.C. § 437g(a)(5)(B).

8 VIII. Respondents will refund \$627,373.15 to contributors who made excessive or  
9 corporate contributions when the Committee is financially able to do so, which contributions are  
10 to be refunded to the contributors who most recently made contributions to the Committee, in  
11 reverse chronological order of the date such contributions were received.

12 IX. The Commission, on request of anyone filing a complaint under 2 U.S.C.  
13 § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance  
14 with this agreement. If the Commission believes that this agreement or any requirement thereof  
15 has been violated, it may institute a civil action for relief in the United States District Court for  
16 the District of Columbia.

17 X. This agreement shall become effective as of the date that all parties hereto have  
18 executed same and the Commission has approved the entire agreement.

19 XI. Respondents shall have no more than 30 days from the date this agreement  
20 becomes effective to comply with and implement the requirements contained in this agreement  
21 and to so notify the Commission.

22 XII. This Conciliation Agreement constitutes the entire agreement between the parties  
23 on the matters raised herein, and no other statement, promise, or agreement, either written or


1 oral, made by either party or by agents of either party, that is not contained in this written  
2 agreement shall be enforceable.

3

4 FOR THE COMMISSION:

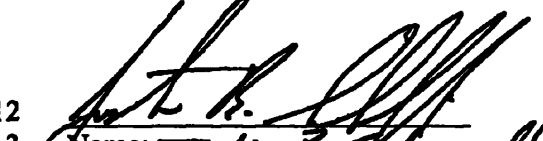
5 Thomasenia P. Duncan  
6 General Counsel

7 BY:

8   
9 ~~Kathleen M. Guith~~ Ann Marie Toczaken  
10 Acting Associate General Counsel  
for Enforcement

8/21/08  
Date

11 FOR RESPONDENTS:

12   
13 Name: Justin B. Schmalt  
14 Title: Treasurer

1/22/08  
Date

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